

IN THE UNITED STATES DISTRICT  
COURT FOR MIDDLE DISTRICT  
P.O. BOX 211, MONTGOMERY, AL  
36130

2006 NOV -8 A 9:36 November, 7<sup>th</sup>, 2006

Prose, #236498.

Lonnie Cammon, Plaintiff  
Similar Situated, et al  
Plaintiff's

VS

TAMIR SIDDIQ M.D.  
and PHS Documentation  
et al  
Similar Situated, et al  
Defendants

2:06-CV-674-WKW

42 U.S.C. 1983, KKK Acts, 1871  
[1]

Affidavit on Personal Knowledge, FRCP Rule 56(c)  
When Defendants Actions, Deviated \*\*\*"  
From Professional Treatment Gue Rise Const 8

# I

## 1). Grounds Under (1)

I. Smith v. Jenkins, 919 F.2d 90-93, (8th Cir 1990) Valid  
Claim of Deliberate Indifference stated By Plaintiff.

II. 2) when defendants actions, DEVIATED, from Professional Treat-  
ment, to MR. Lonnie Cammon # 236498, is the obduracy

III. 3) under, Jackson v. Duckworth, 955 F.2d 21,22 (7th Cir 1992)  
Estate v. Gamble, 429 U.S. At 106 applying both, the  
Subjective component, and objective component, which...

\*. The wrong DOER, is clothes with authority of state Law -  
313 U.S. At 326, United States v. Classic, The Eighth  
Amendment, Prohibits, Acts or Practice, in which cruel  
and unusual Punishment is (Inflicted) ... or Establish

IV. 4) whether By Denying [a] 76 year old Inmate of Proper  
Medical Care, Just Because, the wrong DOER, Believe  
the 76 year old is close to Death, Supports (FRCP) 56(c)

V. 5) The Intent to Deny ANY, Young or older Inmate of  
Proper Medical Care, Violate, 6-3-2, and 6-3-11 E1

VI. 6) Weaver v. Clark, 45 F.3d 1253 Precludes finding of \*\*\*"  
Qualified Immunity where defendant deliberate Indifferent  
to Medical Needs, only Because Inmates older than

VII. 75, Dont Require, Equal Treatment (R. Hodges v. Chapman,  
452 U.S. at 337, is the acts of Practice, which they  
should have known, of a sufficiently serious danger  
to Inmate Life, and fail to Respond, Medically, to Inmates  
Medical Needs, Violated Constitution, Amendment 8th, 429

U.S. At 106... [1]

• See Attachments • -1-

ISI

Lonnie Cammon

P.O. Box 5107

Union Springs, AL 36089

Certificate of Service

I Lonnie Cannon #236498, P.O. Box 5107  
UNIONSPRINGS, ALABAMA 36089

Did hereby forward same to Interested  
Defendants, By and Through the U.S.  
Court Clerk, FRCP Rule 23(a) Notices  
to All Interested, Class members

Done This November 7th, 2006  
By Placing same in United States  
Court House P.O. Box 711 C/o Defendants  
Montgomery, Alabama 36089

15/ Lonnie Cannon  
#236489 P.O. Box 5107  
UNIONSPRINGS AL 36089

C/o Interested  
Defendants  
FRCP Rule 23, 32(a)

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA

LONNIE CAMMON, (AIS #236498),

\*

\*

Plaintiff,

\*

V.

2:06-cv-674-WKW

\*

DOCTOR SEDIET  
and PRISON HEALTH SERVICES,

\*

Defendants.

\*

ANSWER

COME NOW Defendants Prison Health Services, Inc. (identified in the Plaintiff's Amended Complaint as "PMS Prison Medical Services") (hereinafter PHS) and Tahir Siddiq, M.D. (incorrectly identified in the Plaintiff's Complaint as "Doctor Sediet") for Answer in the above styled matter and state as follows:

1. The Defendants deny each and every material allegation contained in the Plaintiff's Complaint, as amended and (demand strict proof thereof. *Smith v. Jenkins 919 F.2d 90-93*)
2. The Defendants plead not guilty to the charges in the Plaintiff's Complaint, as amended. *By Medical Liability Acts 6-3-2, 6-3-11 L.J*
3. The Plaintiff's Complaint, as amended fails to state a claim against the Defendants for which relief can be granted. *(FRCP Rule 8(2)(2). L.J*
4. The Defendants affirmatively deny any and all alleged claims by the Plaintiff. *under counter Part 18 U.S.C. 241, 28 U.S.C. 1343(2)*
5. The Plaintiff is not entitled to any relief requested in the Complaint, as amended. *Smith v. Wade 461 U.S. 30-75)  
6). Weaver v. Clark, 45 F.3d 1253 Precludes  
A finding of Qualified Immunity where Defendants  
were Deliberate Indifferent to 70 year old  
medical needs. - 2 -*

6. The Defendants plead the defense of qualified immunity and aver that the actions taken by the Defendants were reasonable and in <sup>(*BAF faith*)</sup> good faith with reference to clearly established law at the time of the incidents <sup>(*complained of by the Plaintiff. Harlow v. Fitzgerald supra*)</sup>

7. The Defendants are entitled to qualified immunity and it is clear from the face of the Complaint, as amended that the Plaintiff has not alleged specific facts <sup>(*indicating that the Defendants have violated any clearly established constitutional right. see Ground VI, VII, VIII.*)</sup>

8. The Defendants cannot be held liable on <sup>(*the basis of respondeat superior, Monell v. New York Social Services supra*)</sup> agency, or vicarious liability theories.

9. <sup>(*The Plaintiff is not entitled to any relief under 42 U.S.C. § 1983. BY Policy under State Law*)</sup>

10. The allegations contained in the Plaintiff's Complaint, as amended against the Defendants sued in their individual capacities, fail to comply with the heightened <sup>(*Rule 8(a)(2)*)</sup> specificity requirement of Rule 8 in § 1983 cases against persons sued in their individual capacities. <sup>(*void*)</sup> See Oladeinde v. City of Birmingham, 963 F.2d 1481, 1485 (11th Cir. 1992); Arnold v. Board of Educ. Of Escambia County, 880 F.2d 305, 309 (11th Cir. 1989). <sup>(*void*)</sup>

11. The Defendants <sup>(*void*)</sup> plead all applicable immunities, including <sup>(*6-3-2, 6-3-11*)</sup> but not limited to qualified, absolute, discretionary function immunity, and state agent immunity.

12. The Defendants aver that they were <sup>(*at all times acting under color of state law*)</sup> and, therefore, they are entitled to substantive immunity under the law of the State of Alabama. <sup>(*medical Liability Act, If state can get sick*)</sup>

13. The Defendants plead the general issue. <sup>(*3*)</sup>

14. This Court lacks subject matter jurisdiction due to the fact that even if the <sup>(*4*)</sup> Plaintiff's allegations should be proven, the allegations against the Defendants would <sup>(*5*)</sup>

1.  
*6-3-2, 6-3-11*  
*Code 1975*

3.  
*F.R.C.P. Rule 56(e)*

4.  
*28 U.S.C. 636*

amount to mere negligence (Smith v. Wade 461 US 30-75)  
which is not recognized as a deprivation of the Plaintiff's  
28 U.S.C. 2201-2202  
constitutional rights. See Rogers v. Evans, 792 F.2d 1052 (11th Cir. 1986).

15. (The Plaintiff's claims against the Defendants in their official capacities are  
Alabama Const 1901  
barred by the Eleventh Amendment to the United States Constitution.

16. (Alabama law provides tort and other remedies for the allegations made by  
II  
the Plaintiff herein and such remedies are constitutionally adequate.

17. The Defendants plead the defense that at all times in treating Plaintiff they  
exercised the same degree of care, skill, and diligence as other physicians and nursing  
staff would have exercised under similar circumstances and that at no time did they act  
toward the Plaintiff with deliberate indifference to a serious medical need. Fed Rule 36

18. The Defendants plead III  
IV  
the affirmative defense that the Plaintiff's  
Complaint, as amended fails to contain a detailed specification and factual description of  
the acts and omissions alleged to render it liable to the Plaintiff as required by § 6-5-551  
of the Ala. Code (1993).

19. V.  
The Defendants plead the affirmative defenses of contributory negligence  
18 U.S.C. 241  
and assumption of the risk.

20. The Defendants plead the affirmative defense that Plaintiff's damages, if  
any, were the result of an independent, efficient, and/or intervening cause.

21. 18 U.S.C. 242  
6-3-11  
The Defendants plead the affirmative defense that they are not responsible  
for the policies and procedures of the Alabama Department of Corrections.

22. The Defendants plead the affirmative defense that the Plaintiff has failed  
to mitigate his own damages.

6-3-2  
42 USC 1983, 1985(c) [17]

- A -

23. The Defendants plead the affirmative defense that they are not guilty of any conduct which would justify the imposition of punitive damages against them and that any such award would violate the United States Constitution, *461 U.S. - 3075*, *11/2, 1901*.

24. The Defendants adopt and assert all defenses set forth in the Alabama Medical Liability Act § 6-5-481, et seq., and § 6-5-542, et seq.

25. *6-3-11* The Plaintiff has failed to *6-3-2* exhaust his administrative remedies as mandated by the Prison Litigation Reform Act amendment to 42 U.S.C. § 1997e(a). The Plaintiff has failed to pursue the administrative remedies available to him. See *Cruz v. Jordan*, 80 F. Supp. 2d 109 (S.D. N.Y. 1999) (claims concerning Defendant's deliberate indifference to a medical need is an action "with respect to prison conditions" and is thus governed by exhaustion requirement) *429 U.S. At 106*

*DOES NOT APPLY*  
26. The Prison Litigation Reform Act amendment to 42 U.S.C. § 1997(e)(c) mandates the dismissal of Plaintiff's claims herein as this action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks money damages from the Defendants who are entitled to immunity.

27. The Plaintiff's claims are barred by the Prison Litigation Reform Act of 1995, 42 U.S.C. § 1997(e).

28. The Plaintiff has failed to comply with 28 U.S.C. § 1915 with respect to the requirements and limitations inmates must follow in filing in forma pauperis actions in federal court. *28 USC 1343*

29. Pursuant to 28 U.S.C. § 1915 A, this Court is requested to screen and dismiss this case, as soon as possible, either before or after docketing, as this case is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks